

In the Matter of:)
)
Application for)
Certification for the) Docket No. 99-AFC-5
GENERATING)
PROJECT (PG&E Generating))
_____)

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert Laurie, Presiding Member

Robert Pernell, Second Member

STAFF PRESENT

Susan Gefter, Hearing Officer

Ellen Townsend-Smith, Advisor to
Commissioner Pernell

Jeff Ogata, Senior Staff Counsel

Lisa DeCarlo, Staff Counsel

Eileen Allen, Project Manager

Matthew S. Layton

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1 P R O C E E D I N G S

2 1:13 p.m.

3 PRESIDING MEMBER LAURIE: Ladies and
4 gentlemen, welcome to the status conference on the
5 Otay Mesa Generating Project.

6 Good afternoon, my name is Robert
7 Laurie, Commissioner with the California Energy
8 Commission, and Presiding Member of the
9 Commission's Committee during this case.

10 I'd like to introduce the individuals on
11 the dias. To my immediate right is Ms. Susan
12 Gefter. Ms. Gefter is the Hearing Officer
13 assigned to the case. And Ms. Gefter will
14 administer the hearing today.

15 To Ms. Gefter's right is my Commission
16 colleague on the Committee, Commissioner Robert
17 Pernell. And to Commissioner Pernell's right is
18 Commissioner Pernell's Advisor, Ms. Ellen
19 Townsend-Smith.

20 The intent today is to have Ms. Gefter
21 proceed with some introductions and indicate to
22 the audience and to members of the public and
23 interested individuals the manner in which we will
24 proceed today.

25 I should note that this hearing is

1 transcribed. As long as we are in this hearing
2 the reporter will control the proceedings. So, at
3 any time when there is a problem with reporting we
4 will abide by her instructions.

5 Before we proceed, Commissioner Pernell,
6 do you have any opening comments this morning,
7 sir?

8 COMMISSIONER PERNELL: Thank you,
9 Commissioner Laurie. No comments, specific
10 comments. Just welcome, everyone, and I look
11 forward to a very productive session here today.

12 PRESIDING MEMBER LAURIE: Thank you,
13 Commissioner Pernell. Ms. Gefter, at this point,
14 will you go through the introductions and then
15 proceed with indicating to the public the
16 procedure that we'll follow today, please.

17 HEARING OFFICER GEFTER: All right.
18 Before I ask the parties to introduce themselves,
19 I wanted to indicate for the record that this is a
20 status conference on the application for
21 certification for the Otay Mesa Generating
22 Project. And the Energy Commission has assigned a
23 Committee of the two Commissioners who you've been
24 introduced to, to conduct these proceedings.

25 I'm going to ask the applicant to first

1 introduce your representatives, for the record.

2 MR. THOMPSON: Thank you. My name is
3 Allan Thompson. I'm CEC counsel for the
4 applicant. To my right is Ms. Sharon Segner, who
5 is the Project Manager for the Generating Company
6 and will be handling the substance of today's
7 presentation.

8 Throughout the audience awaiting their
9 turn to speak is Sandy Guldman, our biology
10 specialist and Don Dankner, who is a transmission
11 specialist employed by the company. Additionally
12 we have other support staff that can help where
13 needed.

14 HEARING OFFICER GEFTER: Thank you.
15 Would staff please introduce your representatives.

16 MS. ALLEN: Eileen Allen, the Energy
17 Commission Staff Project Manager for the Otay Mesa
18 project.

19 MR. OGATA: Jeff Ogata, I'm also Staff
20 Counsel for the Energy Commission.

21 MS. ALLEN: We've also brought Matt
22 Layton representing the air quality discipline;
23 Lisa DeCarlo, Project Co-Counsel; and Roberta,
24 introduce yourself.

25 HEARING OFFICER GEFTER: Okay, we were

1 going to introduce the Public Adviser, but please
2 come forward now, this is a good time to introduce
3 yourself.

4 MS. MENDONCA: My name is Roberta
5 Mendonca and I'm the Public Adviser at the
6 Energy Commission.

7 I would like to just make a couple
8 comments about the role of public comment. Some
9 of you have not had an opportunity, and my first
10 opportunity to chat with you today. The public
11 input in the process of review that is currently
12 going on is very critical. And you do have an
13 opportunity today to meet two of the five
14 decision-makers, the Commissioners that are here.
15 And also the staff that has just been introduced
16 perform an independent analysis.

17 The Public Adviser's role is neither
18 decision-maker nor analyst, so I'm here to help
19 you with your comments, and to explain how to best
20 make those comments both today and further in the
21 proceeding.

22 Thank you.

23 HEARING OFFICER GEFTER: Thank you.

24 We'd also like the intervenors to introduce
25 themselves for the record. Is there any

1 representative from CURE here today?

2 What about for Duke Energy? Yes.

3 Please come forward.

4 MS. BARNES: I'm Patricia Barnes
5 representing Duke Energy.

6 HEARING OFFICER GEFTER: Thank you. Is
7 there someone here representing NRG Energy today?

8 MR. MAGIE: Good afternoon, my name is
9 Scott Magie representing NRG Energy.

10 HEARING OFFICER GEFTER: Thank you. Is
11 Mr. Claycomb from Save Our Bay here today?

12 MR. CLAYCOMB: I'm William E. Claycomb,
13 President of Save Our Bay, Inc.

14 HEARING OFFICER GEFTER: Thank you.
15 Also we'd like the representatives from local
16 agencies to introduce themselves. San Diego
17 County Department of Planning. Is there anyone
18 here from San Diego County?

19 San Diego Air Pollution Control
20 District? Do we know, Ms. Allen, if anyone from
21 the air district will be here today?

22 MS. ALLEN: We don't know.

23 HEARING OFFICER GEFTER: Applicant?

24 MS. SEGNER: My understanding is that
25 there will be a representative.

1 HEARING OFFICER GEFTER: Okay, thank
2 you. Is there anyone here from the Otay Water
3 District? How about the California ISO?

4 MR. TOBIAS: My name is Larry Tobias
5 representing the California Independent System
6 Operator.

7 HEARING OFFICER GEFTER: Thank you. Are
8 there any representatives from any local, state or
9 federal agencies that I missed who are here today?

10 MR. CAREY: Good afternoon, I'm David
11 Carey of Carey & Associates, representing the Port
12 of San Diego.

13 HEARING OFFICER GEFTER: Thank you.

14 MS. CONCHA-GARCIA: Susanna Concha-
15 Garcia representing the American Lung Association
16 of San Diego and Imperial Counties.

17 MR. MEACHAM: Michael Meacham with the
18 City of Chula Vista.

19 PRESIDING MEMBER LAURIE: And thank you,
20 sir, for making these facilities available. We
21 appreciate it very much.

22 HEARING OFFICER GEFTER: Are there any
23 representatives from Mexico, from the CFE?

24 Also, is anyone here from San Diego Gas
25 and Electric?

1 Members of the public who are attending
2 the hearing today, if you would like to just come
3 and introduce yourself, let us know you're here,
4 please?

5 PRESIDING MEMBER LAURIE: Although we
6 would note that you're not obligated to.

7 MS. DUNCAN: Holly Duncan, concerned
8 private citizen. And I hope to become an
9 intervenor.

10 HEARING OFFICER GEFTER: Thank you. Is
11 anyone else here who would like to introduce
12 yourself for the record?

13 MS. MALLGREN: Laura Mallgren, reporter
14 from The Star News.

15 HEARING OFFICER GEFTER: Were you able
16 to get that? Would you come to the microphone so
17 our reporter can get it?

18 MS. MALLGREN: Laura Mallgren from The
19 Star News.

20 MR. GUERIN: Joe Guerin, The Star-News.

21 HEARING OFFICER GEFTER: The purpose of
22 today's status conference is to discuss the
23 timetable for resolving issues regarding the
24 application for certification and to determine
25 whether the existing Committee schedule should be

1 modified.

2 The parties, staff and the applicant,
3 filed status reports in April indicating that
4 several pending issues would not be resolved prior
5 to staff's publication of the preliminary staff
6 assessment.

7 And, in fact, the preliminary staff
8 assessment was issued on May 3rd, and it contains
9 several incomplete analyses for the topics of
10 biological resources, land use, reliability and
11 efficiency, transmission system engineering, soil
12 and water resources, and visual resources. And
13 staff's air quality analysis was not included in
14 the PSA and is not expected to be available until
15 45 days after the air district issues its
16 preliminary determination of compliance.

17 The timetable then is pretty different
18 than the schedule that we had anticipated in our
19 most recent schedule.

20 We intend to focus on the timetable for
21 completing the topics that were identified in the
22 PSA as incomplete. We will ask the parties,
23 beginning with the applicant, to address the
24 topics listed on the agenda.

25 And I believe that the Public Adviser

1 has circulated an agenda so that everyone should
2 see what topics we're talking about and what the
3 plan for today's hearing is about.

4 The parties will discuss each topic
5 separately so that we can more easily access that
6 information when we review the transcript. In
7 other words, we will begin with air quality; we'll
8 ask the applicant, and then the staff, to address
9 air quality. And if any other agency
10 representative is here at that time, to address
11 air quality. And then we'll go on to the next
12 topic, which would be biology.

13 And then we will allow questions at the
14 conclusion of each topic. Time for public comment
15 will be provided after all the parties have
16 concluded their presentations on all the topics.

17 The presentations will follow the
18 applicant and the staff, and then the agencies,
19 and then the intervenors on each topic.

20 Is there any question on the agenda?

21 We're ready to begin with the
22 applicant's presentation on air quality.

23 MR. THOMPSON: Thank you. Again, my
24 name is Allan Thompson. Ms. Segner will be
25 handling the substantive or most of the

1 substantive areas that we are going to be
2 discussing today.

3 At the back of the room we have made
4 available a number of copies of the document where
5 the first page is entitled, Otay Mesa Project
6 Schedule Update to the California Energy
7 Commission.

8 This is the hard copy of the slides that
9 Ms. Segner will use in her presentation.

10 We attempted to be responsive to the
11 Committee and the public, and Ms. Segner will
12 address both the progress on the substantive
13 issues, as well as a timing estimate for
14 resolution of those issues.

15 At the completion of the prepared
16 material she or we will go back and pick up the
17 areas that have been designated by the Committee
18 that are not contained within our prepared
19 material.

20 And please, before Ms. Segner begins,
21 note that our draft or best guess overall project
22 schedule, which is contained in the last page of
23 the prepared material envisions a three-month
24 slippage for the project.

25 The project was accepted by the

1 Commission in October of last year. Under a
2 normal 12-month schedule, we would expect a final
3 decision in October of this year.

4 Due to the complexity of the issues that
5 we are facing, we now believe that there will be
6 an approximately three-month delay in that final
7 acceptance.

8 HEARING OFFICER GEFTER: Mr. Thompson,
9 could you speak into the microphone more clearly.
10 Thank you.

11 MR. THOMPSON: Okay, I tried to juggle
12 the mike, sorry.

13 MS. SEGNER: Hello, my name is Sharon
14 Segner, and I'm with PG&E Generating. Today we'd
15 like to update you on the various project issues
16 and walk through with you where the issues stand
17 as on the project.

18 The bulk of my comments will focus on
19 air quality, transmission and biology.

20 What we'd like to focus on is how does
21 this all fit together, and what is the timing.
22 There are a number of very complicated issues that
23 need to come together to pull the project off.

24 On the air quality side there's the
25 mobile offsets, the regulatory framework to prove

1 the mobile offsets. The application offset
2 includes the commercialization of SCONOX
3 technology; the preliminary DOC; a CEQA/EIR review
4 of Rule 27; a submittal of offset contracts; and a
5 final determination of completeness.

6 There's a number of issues that are
7 swirling around the air quality side. I'd like to
8 address those issues individually and then explain
9 how they fit together, and also how the timeline
10 fits together, as well.

11 On the biology side, the biological
12 assessment and a section 7 consultation.

13 And on the transmission side, the
14 resolution of the transmission interconnection
15 issues, which we will explain -- there has been a
16 resolution, and explain that, as well, today.

17 In addition, a county land use variance.

18 On the air quality side, we are seeking
19 to be the first stationary source in the country
20 to use mobile offsets in order to site a
21 stationary source. How we go about doing this is
22 complex, but there is also a clear timeline and
23 plan ahead.

24 For the past year we have been working
25 with CARB and EPA, as well as the air district, to

1 put together a program that would have concurrence
2 from CARB and EPA for the program.

3 We have the letters and received them
4 March 15th and March 17th of this year from CARB
5 and EPA authorizing the use of mobile offsets at
6 Otay Mesa. Making Otay Mesa potentially the first
7 power plant in the country to use mobile offsets.

8 The challenge in the last two months is
9 to take the CARB and EPA guidance letters that
10 have come, and that are also public documents, and
11 to merge that guidance into the existing San Diego
12 Air District Rule 27; to put together the
13 framework to allow the mobile offsets to happen.

14 That framework will also be needed and
15 is a prerequisite for the issuance of the PDOC.
16 It is our belief that this draft framework will be
17 attached to the PDOC, and also at this point is
18 ready for issuance.

19 The next step in this is after the PDOC
20 is issued the air district will prepare an EIR for
21 CEQA review of Rule 27, which is their rule that
22 governs the use of mobile offsets. They are in
23 the process -- the air district is in the process
24 right now preparing the EIR, and it is expected
25 that this EIR will be issued no later than June

1 15th.

2 It takes 45 days to go through the EIR
3 process, and so we anticipate that by August 1st
4 the EIR process will be complete.

5 At the same time, the timing for the
6 FDOC, which we anticipate August 1st of 2000, that
7 there will be signed contracts for the entire
8 offset package at that point.

9 Now, with that overview I'd like to
10 basically walk through some of the issues in more
11 detail to outline those with you.

12 The preliminary determination of
13 completeness which is issued by the air district,
14 we view as an extremely complicated PDOC, as it
15 represents the merging of two complex issues in
16 one document.

17 First of all, the commercialization of
18 SCONox and mobile offsets. It is everyone's goal
19 with this PDOC that there is a high level of
20 consensus between EPA, CARB and the air district
21 prior to the issuance of the PDOC. Our goal is
22 that it is a high quality PDOC and that the PDOC
23 only comes out once.

24 The PDOC from PG&E Generating's
25 standpoint is also particularly important because

1 the permit language is key to the introduction of
2 the SCONOX technology.

3 This permit language requires not only
4 the consensus of all regulatory agencies involved,
5 the investment banking community, PG&E Generating
6 and ABB Environmental. In order to commercialize
7 the technology and for this to work, it really
8 requires everyone.

9 At the same time it is the first use, as
10 I've said, the first use of mobile offsets in the
11 nation. It's precedent-setting nature, and it's
12 vital from our standpoint for the success of the
13 program that all issues are covered thoroughly,
14 and there's full consensus before the PDOC is
15 issued.

16 The framework will be attached to the
17 PDOC. And, in addition, some of the mobile offset
18 requirements that the public will comment on are
19 also permit conditions for Otay Mesa. And so that
20 must be included in the PDOC.

21 So, what does this mean from a timeline
22 standpoint? On Tuesday, May 16th, the San Diego
23 Air District issued a draft PDOC. CARB and EPA
24 submitted comments in record time on Thursday, May
25 18th. PG&E Generating submitted comments on the

1 draft PDOC on Thursday and Friday of last week.

2 And we expect the PDOC to be issued no later than
3 June 1st.

4 June 1st is the outward date in terms of
5 the timeline. And the PDOC will indicate that we
6 have sufficient offsets. And there are few issues
7 of substance left to be resolved prior to the
8 PDOC.

9 So the next issue from an air quality
10 standpoint and a timing standpoint is the San
11 Diego Air District Rule 27.

12 Rule 27 is the existing air district
13 rule that governs the use of mobile emissions
14 credits. It's the foundation for being able to
15 use MERCs for NSR purposes.

16 The framework needs to be approved by
17 the Chief Air Pollution Control Officer prior to
18 the FDOC. It's not a rule change.

19 At the same time, PG&E Generating has
20 looked at the rule and we have requested that the
21 air district prepare a CEQA analysis on rule 27.
22 We believe that the CEQA analysis will provide
23 additional assurance to PG&E Generating that the
24 offsets are fungible, meaning that we can sell the
25 excess credits if we are successful in hitting 1

1 ppm as our NOx target, and at the same time, if
2 the project does not move forward, then we can
3 sell the credits from the MERCs into the market,
4 just as any other ERC.

5 PRESIDING MEMBER LAURIE: Ms. Segner,
6 let me interrupt. I don't understand when you say
7 you've asked for a CEQA analysis of Rule 27. I
8 don't understand that. Can you explain what you
9 mean by that?

10 MS. SEGNER: Yes. We have asked the air
11 district to prepare an EIR on Rule 27 that would
12 go out for public comment. And we think that that
13 would provide greater certainty from our
14 standpoint that these offsets are able to be
15 resold into the marketplace, if, in fact the
16 project -- if the project does not move forward,
17 or if we are successful in hitting 1 ppm for NOx.

18 If you flip to the next slide, --

19 COMMISSIONER PERNELL: Excuse me, could
20 I do one follow-up on that, one quick question?

21 MS. SEGNER: Sure.

22 COMMISSIONER PERNELL: In your
23 estimation how long do you think that would take,
24 the EIR?

25 MS. SEGNER: The EIR process is on the

1 slide above. The air district in April of 2000
2 issued a notice of EIR preparation. The air
3 district plans on releasing the EIR on June 15th.
4 And then there's a 45-day public comment process,
5 and the EIR is approved on April 1st.

6 And that also ties to the FDOC timeline
7 which we anticipate the FDOC to be issued on
8 August 1st.

9 PRESIDING MEMBER LAURIE: Okay, but
10 explain what the project is that the EIR is
11 identifying. There's an existing rule, Rule 27.

12 COMMISSIONER PERNELL: Which hasn't
13 changed.

14 MS. SEGNER: That's correct.

15 PRESIDING MEMBER LAURIE: And so when
16 you do your EIR, when they do their EIR there will
17 be a project description. What is the project
18 that the EIR is defining?

19 MS. SEGNER: It will be for anyone in
20 San Diego County to be able to use mobile source
21 offsets for NSR purposes. And so it's not just
22 specific to the Otay -- it broadens the guidance,
23 the regulatory guidance to not just Otay Mesa, but
24 to the NSR market at large.

25 PRESIDING MEMBER LAURIE: So it's

1 somewhat like a master EIR?

2 MS. SEGNER: That's correct.

3 PRESIDING MEMBER LAURIE: And is it your
4 anticipation that our staff will be relying in
5 part on that master EIR for its own analysis?

6 MS. SEGNER: The air district's position
7 is that the EIR is more for PG&E Generating's
8 comfort rather than the need for the offsets to be
9 offsets.

10 PRESIDING MEMBER LAURIE: I'm trying to
11 discern the extent to which this Committee in its
12 analysis is going to be dependent upon information
13 contained in that EIR.

14 MS. SEGNER: My understanding is that
15 the Committee is not dependent on the information
16 in the EIR.

17 PRESIDING MEMBER LAURIE: Thank you.

18 COMMISSIONER PERNELL: I'm not sure that
19 my question was answered --

20 MS. SEGNER: Okay, sorry.

21 COMMISSIONER PERNELL: -- in terms of
22 how much time it takes to do this EIR, and whether
23 or not this EIR, for the comfort level of PG&E
24 Generating, is setting this project back by three
25 months.

1 MS. SEGNER: My view is that the EIR
2 does not set the project back. Our anticipated
3 date is that the PDOC will be issued no later than
4 June 1st.

5 Because of that, the earliest that the
6 FDOC could be issued is August 1st. And so what
7 we are proposing is essentially a parallel path.
8 And that while the PDOC is out for public comment,
9 this EIR is also going on at the same time. And
10 the two come together, so there's not a project
11 delay. It's simply an issue of two different
12 issues going along a parallel path.

13 COMMISSIONER PERNELL: Okay.

14 HEARING OFFICER GEFTER: Which agency
15 will adopt the EIR if it is approved?

16 MS. SEGNER: The air district.

17 HEARING OFFICER GEFTER: The air
18 district. Will CARB and EPA be filing comments on
19 this EIR?

20 MS. SEGNER: I don't know that they will
21 definitely be filing comments or not. But
22 certainly they will be noticed, and have been
23 noticed that the EIR process is occurring.

24 PRESIDING MEMBER LAURIE: Does staff
25 have a copy of the NOP for the EIR?

1 MS. ALLEN: No, we do not.

2 PRESIDING MEMBER LAURIE: And the answer
3 is no, they do not. I would ask the applicant to
4 provide staff with a copy of the NOP.

5 MS. SEGNER: Okay, will do.

6 MS. ALLEN: Staff expects that CARB and
7 EPA would be providing comments on the district's
8 EIR.

9 HEARING OFFICER GEFTER: Is the EIR
10 going to be significantly different than the PDOC,
11 or is it dependent on the guidance letters from
12 EPA and CARB? Because we can't understand this
13 parallel process if you're going to have a PDOC
14 issued anyway.

15 MS. SEGNER: Okay. The PDOC is going to
16 be issued, and when the PDOC is issued a copy of
17 the draft framework will be issued with the PDOC,
18 as well. So what the staff will have is the full
19 package.

20 At the same time there is another
21 parallel path that's going on specifically related
22 to the rule. And so the full package will be --
23 is provided in the PDOC, as well.

24 PRESIDING MEMBER LAURIE: I would ask
25 staff or the applicant to docket the NOP. I am

1 very interested in seeing that so I can get a
2 better understanding of what the project is that
3 is being described in the EIR. So I'd ask you to
4 docket the NOP.

5 MS. SEGNER: Okay. Why don't we go to
6 the next one. PG&E Generating would also like to
7 provide an update on where we are with our offset
8 purchases, as that is a vital part of the air
9 quality timeline, as well.

10 120 tons of NOx or NOx equivalent are
11 required to site Otay Mesa. VOC and PM10 offsets
12 are not believed to be required. Today we have 70
13 tons of NOx, or NOx equivalents under contract; 45
14 of the 70 are stationary offsets.

15 The other 25 is from San Diego Harbor
16 Excursions. San Diego Harbor Excursions filed
17 their MERC application to the air district in
18 April of 2000.

19 The remaining 50 tons we will finalize
20 prior to August 1, 2000, the date of the FDOC
21 issuance. We expect to announce an additional 35
22 MERC tons very shortly. We're under exclusivity
23 and confidentiality for these MERC tons.

24 Once the PDOC is issued and the draft
25 framework is attached to it, we will be able to

1 finalize this transaction.

2 In addition, we have identified at least
3 an additional 15 tons of stationary source offsets
4 that are under exclusivity and confidentiality,
5 and these are offsets to be created.

6 The addition of 35 and 15 equals the 50
7 tons that are remaining, and we expect them to be
8 finalized -- we expect to have these contracts
9 ready easily by August 1st.

10 The FDOC checklist. Our timeline is the
11 PDOC issued June 1st, as the outward date. Sixty
12 days later the FDOC on August 1st. By August 1st,
13 that means that there are signed contracts for the
14 offset package. The Chief Air Pollution Officer
15 and CARB have approved the rule 27 framework, and
16 the EIR is complete.

17 Another issue that we'd like to give you
18 an update on is the biology timeline. And --

19 HEARING OFFICER GEFTER: You know what
20 I'd like to do is I'd like to stop --

21 MS. SEGNER: Okay, sure.

22 HEARING OFFICER GEFTER: -- on air, and
23 I'd like to hear staff's comments on the issues
24 that you raised. And then we can complete the
25 whole discussion of air and move on to biology.

1 MS. SEGNER: Okay, sure.

2 PRESIDING MEMBER LAURIE: And, Ms.

3 Allen, the microphone on your right is for the
4 reporter. The one on your left is amplification,
5 and you need to use both of them, please.

6 MS. ALLEN: Thank you, Commissioner
7 Laurie. I've prepared informal talking points
8 related to the key areas that staff is looking at.
9 That's on a handout that I put on the chair up
10 there.

11 As far as air quality, when I typed this
12 up yesterday we were looking at the possibility
13 that the air district's preliminary determination
14 of compliance might be released this week.

15 Now we know from the applicant that
16 we're looking more at June 1st. Staff will
17 publish its air quality PSA 45 days after the PDOC
18 is published, so that's a day-for-day linkage
19 there.

20 We plan to publish a final staff
21 assessment, which would include air quality, 45
22 days after the release of the air quality portion
23 of the PSA.

24 The applicant has covered the details as
25 far as the air quality picture, as we see it. The

1 only thing that I would add is that there's a
2 possible linkage between biological resources and
3 the air district's release of the final DOC. And
4 that's the second bullet item under biological
5 resources on my handout.

6 USEPA has raised the issue that they
7 need to have the Fish and Wildlife Service's
8 biological opinion before they can issue a federal
9 prevention of significant deterioration permit.

10 In order to -- well, let me to back a
11 bit. The air district usually has EPA's
12 prevention of significant deterioration permit in
13 hand before they issue a final DOC. And with EPA
14 needing that biological opinion first, it's
15 uncertain about whether the timing will work out.

16 I think the air district would like to
17 issue a final DOC towards the end of the summer,
18 as Ms. Segner indicated. We aren't certain when
19 the biological opinion will be ready. Now, EPA
20 needs that in order to contribute their federal
21 piece to the air district document.

22 So, EPA is talking with the air district
23 about whether these items need to be linked or
24 not. And we're following the progress of their
25 discussions.

1 HEARING OFFICER GEFTER: Question, Ms.
2 Allen. When staff issues your air quality PSA,
3 after the PDOC is published, will that include
4 information on the EIR on Rule 27?

5 MS. ALLEN: I'll let Mr. Layton respond
6 to that.

7 MR. LAYTON: My name's Matthew Layton.
8 I'm with the air quality unit of the Energy
9 Commission.

10 Maybe a long answer, but Commissioner
11 Laurie's question, what was the project for the
12 EIR. San Diego has had a rule in place that
13 allows mobile emission reduction credits to be
14 generated and used.

15 However, the details were never really
16 in the rule. What the district is developing
17 right now is the framework of how you generate
18 these to make valid ERCs. That's what they --
19 because these ERCs can be used for a lot of
20 different projects, they have broader implications
21 than just this project.

22 So, our EIR, or our process would not
23 necessarily help the district to use these MERCs
24 for other projects. So they wanted to do their
25 own EIR for the framework to make sure they could

1 use these mobile emission reduction credits for
2 any project.

3 PRESIDING MEMBER LAURIE: So the
4 framework has not as yet been adopted?

5 MR. LAYTON: Correct. That's what is
6 being --

7 PRESIDING MEMBER LAURIE: Okay.

8 MR. LAYTON: The applicant has spent a
9 lot of time with ARB and EPA to make sure that
10 they buy into the framework. They agreed that the
11 offsets would be valid when they are generated via
12 this framework.

13 And then the EIR is going to provide the
14 public input into this document to make sure that
15 any environmental implications from the framework,
16 or from using, for generating to use these MERCs
17 is looked at.

18 PRESIDING MEMBER LAURIE: So in your
19 view, Mr. Layton, is the Committee decision
20 dependent in any part upon the framework and the
21 environmental analysis conducted of that
22 framework?

23 MR. LAYTON: I think the answer is yes
24 and no. We have the right to look at mitigation
25 and determine if it's valid or not, or any impacts

1 that we have determined for a project.

2 The framework could generate MERCs but
3 we may not think they're appropriate mitigation
4 for our project. But obviously the efforts of the
5 applicant, EPA, and ARB to look at this program
6 and generate a program that is based on a lot of,
7 I guess, information and a lot of expertise will
8 generate, hopefully, more valid ERCs. Or, you
9 know, the best ERCs available. ERCs that are
10 real, quantifiable, surplus, things that can be
11 used to mitigate emission increases or impacts.

12 PRESIDING MEMBER LAURIE: I'm not doing
13 a very good job of articulating my concern -- not
14 my concern, my question.

15 We have to have an understanding of the
16 extent to which our environmental analysis, as
17 incorporated into the Committee decision, must
18 make reference to slash acknowledge slash consider
19 slash be aware of slash take into consideration
20 the framework being adopted in the EIR being
21 prepared to analyze the impacts of that framework.

22 I am not suggesting that there is an
23 obligation, but it's an issue that we have to be
24 aware of.

25 So, in your view, is the framework

1 something that is to be a part of our
2 environmental consideration?

3 MR. LAYTON: The answer is yes. I think
4 I understand the question now. When the district
5 issues its determination of compliance, whether
6 preliminary or final, they are stating that it
7 complies with their rules.

8 And for the MERCs to be used in their
9 NSR program, their new source review program, they
10 have to be valid emission reduction credits.

11 So for them to ultimately conclude that
12 the project complies with their rules and issue
13 this DOC for us to use, then they have to have all
14 the rules in place, the framework in place, the
15 framework adopted.

16 So, yes, we do depend on it because they
17 ultimately are going to state to us that the
18 emission reduction credits comply with all their
19 rules, and then in turn I have to make a
20 recommendation to you that, yes, the project
21 complies with all the district's rules, one of
22 which is this MERC rule.

23 PRESIDING MEMBER LAURIE: And would that
24 compliance be, in part, conditioned upon certain
25 mitigation measures? That is, when the PDOC is

1 issued and the district says you're in compliance,
2 does that notice of compliance include conditions
3 being certain mitigation measures?

4 MR. LAYTON: Yes, there's a lot of
5 conditions of certification --

6 PRESIDING MEMBER LAURIE: Okay.

7 MR. LAYTON: -- that are issued in the
8 DOC.

9 PRESIDING MEMBER LAURIE: So, it is not
10 our intent to do an independent analysis of the
11 environmental impacts of the framework, but rather
12 it's your intent to review the PDOC, which will
13 contain the results of that environmental analysis
14 and make recommendations pursuant to that. Is my
15 understanding correct?

16 MR. LAYTON: That is correct.

17 PRESIDING MEMBER LAURIE: Thank you.

18 COMMISSIONER PERNELL: I have one
19 question on that, Mr. Layton. Can we go through
20 this process without the EIR, just the PDOC? I
21 mean can we get to an end result -- this is a
22 different way of framing Commissioner Laurie's
23 question, at least in my mind -- can we get to a
24 result without the additional EIR that is being
25 requested by the applicant?

1 MR. LAYTON: I think because the EIR
2 will be working in parallel with the --

3 COMMISSIONER PERNELL: I know, I
4 understand that part.

5 MR. LAYTON: I think yes, I think we
6 will, if there are concerns raised during the EIR
7 process, we can bring them -- raise them during
8 the FDOC, as well. If we feel that portions of
9 the EIR are not adequate, and we have comments on
10 them, we will comment on the EIR to the district.

11 But we can also raise those in our
12 recommendations to you in the FSA. Or comments to
13 potentially raise in the FDOC, and in our FSA.

14 COMMISSIONER PERNELL: So we do plan to
15 comment on the EIR?

16 MR. LAYTON: Plan to participate. I
17 don't know if we'll comment or not. The district
18 has done a lot of work. I think they're on the
19 right track. We will participate, and I don't
20 know if we'll comment this time.

21 COMMISSIONER PERNELL: Okay.

22 MS. SEGNER: Sharon Segner, PG&E
23 Generating. One issue just to clarify is that
24 what is needed is that the draft framework will
25 need to be approved by the Chief Air Pollution

1 Control Officer.

2 And there's not a rule change needed to
3 Rule 27. It is the approval of the Chief Air
4 Pollution Control Officer. And that is the
5 critical aspect from an analysis standpoint.

6 The EIR, again, is more to broaden the
7 use of the MERCs.

8 PRESIDING MEMBER LAURIE: Question to
9 Ms. Segner. Can the FDOC be issued without the
10 framework?

11 MS. SEGNER: Without the approved
12 framework?

13 PRESIDING MEMBER LAURIE: Yes.

14 MS. SEGNER: No.

15 PRESIDING MEMBER LAURIE: Okay, so we
16 are dependent upon the FDOC, the FDOC is dependent
17 not only on the Rule 27, but the framework
18 implementing Rule 27. And that is dependent upon
19 the environmental analysis?

20 MS. SEGNER: Yes. The environmental --
21 right. The environmental analysis, yes, that's
22 correct.

23 PRESIDING MEMBER LAURIE: Therefore, is
24 it proper to conclude that our decision-making is
25 reliant upon the EIR being completed, because if

1 the EIR is not completed, the framework cannot be
2 approved. If the framework is not approved, then
3 the FDOC will not be issued.

4 MS. SEGNER: I'm sorry, what is -- the
5 approval of the framework is not contingent upon
6 the EIR. They are two separate processes. I'm
7 sorry if I misunderstood your question.

8 PRESIDING MEMBER LAURIE: Well, let me,
9 well, I have to question that. If an EIR, and I'm
10 asking these questions so our staff, as well, has
11 a proper understanding, that's why I'm anxious to
12 review the NOP.

13 If the district has indicated that
14 they're looking at a framework, and before they
15 adopt the framework they want to study the
16 environmental implications of it, and therefore
17 intend to write an EIR, then they cannot approve
18 the framework without approving and certifying the
19 EIR.

20 Therefore they are not independent. The
21 framework can only be adopted upon completion and
22 certification of the framework EIR.

23 And therefore, again, I would conclude
24 that we're not approving that EIR, but we are
25 going to review, we're going to take into account

1 the FDOC. The FDOC will not be issued until the
2 framework is adopted. The framework will not be
3 adopted until, perhaps simultaneously with, the
4 EIR analyzing the environmental impacts of the
5 framework is adopted.

6 Does that make sense? We have somewhat
7 of an affirmative head shake.

8 Mr. Thompson, do you have any thoughts
9 about that?

10 MR. THOMPSON: I don't other than the
11 district, we believe, will have a representative
12 here a little later which probably --

13 MS. ALLEN: He has come in, Mr. Speer of
14 the district has come in.

15 HEARING OFFICER GEFTER: Mr. Speer,
16 perhaps you could come forward and comment on the
17 topics we've been discussing. Please identify
18 yourself for the record, and perhaps you can help
19 us understand this process.

20 MR. SPEER: I'm sorry, you'll have to
21 forgive me, I just walked in. So you may have to
22 fill me in a little bit.

23 HEARING OFFICER GEFTER: Please identify
24 yourself for the record.

25 MR. SPEER: I'm Daniel Speer; I'm the

1 Senior Air Pollution Control Engineer. And I work
2 for the San Diego County Air Pollution Control
3 District.

4 HEARING OFFICER GEFTER: Thank you.

5 PRESIDING MEMBER LAURIE: Let me try
6 this, Ms. Gefter.

7 Sir, good afternoon. My name is Robert
8 Laurie, and myself and Commissioner Pernell are
9 the Committee hearing this case on behalf of the
10 Commission.

11 The question that's in front of us is
12 the relationship of Rule 27 and its framework that
13 is being adopted to our decision-making.

14 It's our understanding that the district
15 is seeking to implement a framework under Rule 27.
16 And in doing so, the district intends to prepare
17 an environmental impact report analyzing the
18 impacts of that framework, is that correct, so
19 far, to your knowledge?

20 MR. SPEER: I'm afraid that you're
21 asking me a question that I can't respond to. I'm
22 a permit processing engineer and haven't been
23 involved in the Rule 27 process at all. So I'm
24 afraid I'm without information.

25 PRESIDING MEMBER LAURIE: Okay, thank

1 you.

2 HEARING OFFICER GEFTER: Well, back to
3 the previous comment by Commissioner Laurie where
4 he asked applicant whether you would agree with
5 his scenario, and we didn't get anything on the
6 record. Ms. Segner kind of shook her head.

7 But if you could just comment for us,
8 for the record?

9 MS. SEGNER: Sharon Segner with PG&E
10 Generating. Yes, I would agree with what was
11 outlined.

12 HEARING OFFICER GEFTER: And our
13 understanding is then that because PG&E has
14 requested this EIR, and therefore any delays that
15 we find in getting to an FDOC in this case is as a
16 result of that request by applicant?

17 MR. THOMPSON: Let me afford myself the
18 opportunity of replying to the Committee when we
19 have a chance to huddle with the Air Pollution
20 Control District individuals that are processing
21 this EIR and the rule change.

22 We may come to the conclusion that the
23 approval of the EIR is merely an approval for the
24 program that the environmental implications and
25 indeed the entire program is already before the

1 public and reflected in the preliminary DOC, in
2 which case we may not see the approval of the
3 program as having had to occur prior to the FDOC,
4 but we're speaking from what I'd really like to do
5 is to bring in some people that know exactly what
6 they're doing on this, and get back to the
7 Committee. If that's acceptable?

8 HEARING OFFICER GEFTER: Will you be
9 able to contact those folks today, before we end
10 this hearing today?

11 MS. SEGNER: Sure. I'll make a --
12 Sharon Segner, PG&E Generating -- I'll make a
13 phone call.

14 HEARING OFFICER GEFTER: Thank you.

15 PRESIDING MEMBER LAURIE: Is the
16 question clear?

17 MS. SEGNER: Sharon Segner, PG&E
18 Generating. My understanding of the question is,
19 is the air district's view that the EIR is
20 required for issuance of the FDOC. Is it simply
21 the applicant's request, or is it also the air
22 district's request, as well.

23 PRESIDING MEMBER LAURIE: Okay, well,
24 let me try it again. It is not so much whether
25 the EIR is necessary, but whether the adoption of

1 the framework will be necessary before they issue
2 an FDOC.

3 If the adoption of the framework is
4 necessary in their view, and they're doing an EIR,
5 well, then the EIR has to be approved before the
6 adopt the framework.

7 And the question posed is then what are
8 the repercussions of a potential delay of doing an
9 EIR on what is, if you don't want to call it a
10 rule change, that's fine, but it is a
11 discretionary action to be approved by the
12 district before they issue the FDOC.

13 HEARING OFFICER GEFTER: While Ms Segner
14 makes this phone call, are there any comments from
15 any of the intervenors on the area of air quality,
16 or any questions?

17 Mr. Claycomb, do you have any questions?

18 MR. CLAYCOMB: Not on nitrogen oxide --

19 HEARING OFFICER GEFTER: Is there
20 somebody in the back who has a question? Please
21 come forward.

22 MR. MAGIE: Scott Magie from NRG Energy.
23 I had basically two questions I was trying to get
24 an understanding of.

25 One was the VOC PM10 offset not being

1 required. And if someone could explain that.

2 And then how a mitigation offset is
3 established for NOx credits, such as how many
4 extra credits are needed in order, with the offset
5 concept that's utilized in the rule 69.

6 HEARING OFFICER GEFTER: Ms. Segner, do
7 you think you could answer those questions?

8 MS. SEGNER: Sharon Segner, PG&E
9 Generating. We asked the air district for a
10 formal letter on the PM10 and the VOC offset
11 issue, and they formalized, and we also docketed
12 that with the Energy Commission on the air
13 district's position on VOCs and PM10 offsets.

14 Their position was that the VOC and PM10
15 offsets were not needed for the project. However,
16 Dan Speer could probably comment best from the air
17 district's perspective on that issue.

18 MR. SPEER: Dan Speer with the Air
19 Pollution Control District. We have specific
20 threshold levels of emissions that trigger offset
21 requirements. The PM10 emissions and the VOC
22 emissions that are proposed by the project do not
23 trigger these quantities, and therefore offsets
24 are not required for those two pollutants.

25 HEARING OFFICER GEFTER: Thank you. Are

1 there any other questions from the intervenors?

2 All right, we're going to take a brief
3 recess while Ms. Segner -- okay, please come up,
4 I'm sorry.

5 MS. SEGNER: Sharon Segner, PG&E
6 Generating. Regarding the second question from
7 NRG, could you repeat the question? I'm not sure
8 I fully understood.

9 HEARING OFFICER GEFTER: Come on up
10 after he has this question answered.

11 MS. ALLEN: Ms. Gefter.

12 HEARING OFFICER GEFTER: Yes.

13 MS. ALLEN: While he's getting ready to
14 repeat his question, I'm going to have a
15 clarification on that EPA item that I mentioned,
16 too.

17 HEARING OFFICER GEFTER: All right. Can
18 we go off the record for one minute.

19 (Brief recess.)

20 MR. MAGIE: The question I had dealt
21 with the offset concepts where if the requirement
22 for a facility to operate was, for example, 100
23 tons on an annual basis, there's generally an
24 offset criteria where you have to procure 120
25 tons, and you lose the 20 ton offset as a benefit

1 to the community for bringing in other emissions.

2 And my question was does, I guess, rule
3 27 even address that, or is that already built
4 into the numbers?

5 MS. SEGNER: Sharon Segner, PG&E
6 Generating. I'm sorry, my slide should have been
7 clearer on that point.

8 We need, offsets we're limited to -- we
9 need 100 tons of offsets, and we are procuring 120
10 tons of offsets.

11 MR. MAGIE: Okay, so basically it's a 20
12 percent offset criteria?

13 MS. SEGNER: Right, in line with the
14 current San Diego Air District rules. Yes.

15 MR. MAGIE: Okay, thank you.

16 MS. DUNCAN: Holly Duncan, private
17 citizen. I have two questions. One is as a lay
18 person here I want to make sure I understand
19 Commissioner Laurie's question.

20 And as I understand it certification
21 requires LORS compliance. And if MERCs were
22 not -- I think I heard MERCs were not a formal
23 part of the air district's rules. And that's what
24 we're doing now, is getting them put into the
25 rules. If the rules are in process does that

1 affect your Energy Commission report that Matt
2 would be issuing? Is that the question? Because
3 that's how I'm hearing it.

4 PRESIDING MEMBER LAURIE: I think you
5 probably articulated it better than I did. I
6 would say that that's a fair representation of
7 what my question was.

8 MS. DUNCAN: Okay. And then my other
9 question is in terms of using MERCs to offset one
10 particular noxious chemical, the MERCs that I
11 understand that are out there are diesel, and they
12 do produce PM10.

13 So isn't there -- are we going to be
14 increasing PM10 as a result of using a MERC? Was
15 that addressed? That's my question to the Air
16 Pollution Control District. Because as I said
17 before, I think MERCs are murky and I'm trying to
18 understand them better, but it sounds to me like
19 we're going to be like, you had no PM10 offset
20 requirement, but there will be increases or --

21 MS. SEGNER: Sharon Segner, PG&E
22 Generating. In terms of issue in terms of related
23 to PM10 what will be replaced with the MERC
24 program, there's two alternatives.

25 One is what I would characterize as a

1 dirty diesel to ultra clean diesel conversion,
2 which there are positive NOx and PM10 benefits to
3 those conversions. Or secondly, a dirty diesel to
4 clean natural gas conversion, which there are
5 positive NOx and PM10 benefits to that conversion,
6 as well.

7 So our position would be that the net
8 air quality, there would be a net air quality
9 benefit on PM10 front.

10 MS. DUNCAN: That generates one more
11 question. Will that also be in compliance with
12 the new EPA proposed rules for diesels?

13 MS. SEGNER: Sharon Segner --

14 MS. DUNCAN: Coming down line.

15 MS. SEGNER: Sharon Segner, PG&E
16 Generating. Yes. The engines that are replaced
17 must be CARB-certified engines. And those CARB-
18 certified engines are in compliance with EPA's
19 rules and regs, as well.

20 MS. DUNCAN: Current rules, or future?
21 There's new rules going to be coming out in the
22 fall.

23 MS. SEGNER: Yes, in terms of which
24 regulations, it will be the future regulations.

25 MS. DUNCAN: Okay, thank you.

1 MR. MEACHAM: Michael Meacham with the
2 City of Chula Vista. I wonder if there was any
3 more detail -- actually, two questions -- I wonder
4 if there was any more detail with regards to the
5 45 tons of stationary offsets that you had in your
6 slide.

7 And the second one was I wondered if the
8 California Air Resources Board and the applicant
9 had figured into the savings that they were just
10 talking about with regards to vehicles the
11 difference between the life of the facility, the
12 generating plant, and the typical life of the
13 vehicles. And if that correlation is offset
14 either in time or by number of vehicles or
15 whatever.

16 Thank you.

17 MS. SEGNER: Sharon Segner with PG&E
18 Generating. In answer to your first question
19 regarding the life of the vehicles and how the
20 permanency issue is -- second question, in terms
21 of how the permanency issue is addressed.

22 Clearly, with some of the engine
23 conversions that we're doing there is a similar
24 life span to the life of the power plant, and the
25 life of some of these engines.

1 A marine engine, the marine engine
2 retrofits that we're doing are 1941 engines that
3 are being replaced. And so that is comparable to
4 what is deemed as a life of a power plant, which
5 is 30 years. So the conversion is actually a
6 permanent or -- a permanent conversion.

7 In the case of trucks it is more
8 complicated. And what that means from a practical
9 standpoint, after you filter the rules and the
10 regulations, is it means that we need to do more
11 trucks in order to create a permanent offset to
12 account for the differences in the life span.

13 And from an air quality standpoint there
14 is actually -- it is actually positive to -- it is
15 viewed as positive to have positive air quality
16 benefits earlier in the life span, rather than at
17 the end in terms of how the regulators look at air
18 quality benefits.

19 And in terms of your question on the
20 stationary sources, on the 45 tons, what PG&E
21 Generating did before we purchased the 45 tons is
22 we had gone through all of the records at the air
23 district, as well as we talked with CARB and EPA
24 prior to purchasing any of the 45 tons.

25 We did not cut a check for any tons

1 without talking to all three agencies and working
2 with them to insure that they are actually true
3 emission reduction credits.

4 In terms of the specific list of who we
5 got the emission reduction credits from and who we
6 purchased them from, we at our last hearing walked
7 through the list of where we purchased them from.
8 And it is public information, as well.

9 MR. MEACHAM: If I can go back to the
10 vehicles for just a second. Again, it's Michael
11 Meacham with the City of Chula Vista.

12 So, if the average age of a trash truck
13 or a transfer truck, which I know some of the ones
14 that have approached PG&E, is about eight to ten
15 years maximum. Does that suggest that the final
16 report will show that for those types of vehicles
17 in that family, that two and a half to three times
18 the number of vehicles expected for the, you know,
19 the annual reduction would be -- not the annual,
20 but the ten-year cycle for a 30-year plant would
21 be financed?

22 MS. SEGNER: Sharon Segner, PG&E
23 Generating. There's two schools of thought in
24 terms of how the permanency issue is addressed on
25 that vantage point.

1 And what it means, from a practical
2 standpoint, is that typically with the trucks that
3 we're talking about, then it means that there's
4 two to three trucks that are -- because they have
5 life spans anywhere from 10 to 12 years, two to
6 three trucks equals a quote "permanent" offset.
7 And we're defining permanent as 30 years, the life
8 of the power plant.

9 HEARING OFFICER GEFTER: Okay, we're
10 going to stop our discussion on air quality at
11 this point and take a five-minute recess while Ms.
12 Segner makes a call to the air district.

13 Thank you.

14 (Brief recess.)

15 PRESIDING MEMBER LAURIE: For purposes
16 of future testimony today, we will be adjourning
17 this meeting at 4:00. And therefore we will
18 insure that all discussion points are focused and
19 to the point. And, if necessary, we will limit
20 the amount of time being testified to, for, with.
21 The point being is that we have a specific time
22 limit by which we have to adjourn the meeting.

23 Ms. Gefter.

24 HEARING OFFICER GEFTER: All right. We
25 wanted to get some conclusory remarks from the

1 applicant on air quality.

2 MR. THOMPSON: Thank you. We were
3 unable to reach the individual at the district
4 that would have the information that we need to
5 clarify the role and significance of the EIR to
6 this process.

7 However, what we would like to do is ask
8 the Committee's indulgence and get that
9 information this week. And file a letter in the
10 record which hopefully will clarify the questions
11 that the Committee Members have asked.

12 HEARING OFFICER GEFTER: Thank you. The
13 next topic is biological resources. Are you
14 prepared to go forward with your presentation?

15 MR. THOMPSON: I am. Let me see what I
16 can do about the key member of the team. Sharon.

17 MS. GULDMAN: Allan, I don't know if
18 this is appropriate or not, but I --

19 HEARING OFFICER GEFTER: Off the record.

20 (Off the record.)

21 HEARING OFFICER GEFTER: We'll go on the
22 record now.

23 MS. SEGNER: Sharon Segner, PG&E
24 Generating.

25 We also wanted to outline briefly where

1 things are at with the biology resolution --
2 resolution of the biology issues.

3 On April 12, 2000, the San Diego Board
4 of Supervisors approved, five to zero, the
5 project's compliance with the San Diego County
6 MSCP, as well as approved the land use variance.

7 PRESIDING MEMBER LAURIE: Is that the
8 general plan?

9 MS. SEGNER: Yes, that's correct.

10 PRESIDING MEMBER LAURIE: Thank you.

11 MS. SEGNER: On April 26, the biological
12 assessment was docketed with the California Energy
13 Commission. We anticipate that the section 7
14 consultation will be initiated shortly in early
15 June 2000. And Sandy Guldman will explain
16 precisely what is needed in order for that to
17 start.

18 The U.S. Corps of Engineers nationwide
19 permit, we expect that application to be submitted
20 in mid-June. And we expect the permits to be
21 issued mid-August of 2000.

22 U.S. Fish and Wildlife has committed to
23 an early September 2000 biological opinion. And
24 California Fish and Game will adopt the biological
25 opinion 30 days after U.S. Fish and Wildlife with

1 an early October 2000 timeline.

2 And Sandy Guldman will explain in more
3 details. Thank you.

4 MS. GULDMAN: I'm Sandy Guldman. I work
5 for the Generating Company on biology issues.

6 One correction I would like to make is
7 the multi-species conservation plan is the
8 regional conservation strategy that San Diego
9 County has developed with Fish and Game and Fish
10 and Wildlife for compliance with federal and state
11 Endangered Species Act. And it is, I believe, an
12 element of the general plan, but it's not the
13 whole general plan.

14 And the biological mitigation ordinance
15 is the ordinance that the Board of Supervisors
16 enacted to implement the multi-species
17 conservation plan.

18 PRESIDING MEMBER LAURIE: That's fine,
19 thank you.

20 MS. GULDMAN: The information that's
21 needed to finalize the biological assessment was
22 laid out at a May 5th biology workshop that was
23 held at Fish and Game here in San Diego. And in
24 order to finalize the biological assessment and
25 initiate the section 7 consultation formally, we

1 need the results of the quino checkerspot
2 butterfly surveys. And that season's just closed
3 last week, so it will be a couple of weeks for the
4 report to be prepared and get submitted to the
5 Service.

6 They would like a dry season vernal pool
7 fairy shrimp survey to be conducted at a pond
8 which lies along the alternate gas route. And
9 that will be done by early June.

10 They want to see --

11 COMMISSIONER PERNELL: Excuse me. On
12 the dry season fairy shrimp, so what do they do?
13 Dig up and get the -- my understanding that fairy
14 shrimp in the dry season is they're not there.

15 MS. GULDMAN: The cysts are there.

16 COMMISSIONER PERNELL: Oh, the cysts --

17 MS. GULDMAN: So this sounds like the
18 most incredibly tedious exercise you can imagine.
19 They dig up dry soil samples and sieve them to get
20 the size class that the vernal pool fairy shrimp
21 cysts are in. So they, you know, sit them in a
22 stack of sieves and shake them. And then look at
23 that size class and examine under a microscope all
24 the things in that size class.

25 And if you're expert enough in the

1 arcane identification of branichecta egg cysts you
2 can recognize them.

3 COMMISSIONER PERNELL: Okay, sorry I
4 asked.

5 (Laughter.)

6 MS. GULDMAN: It sounds like a job I
7 would not be first in line for.

8 That study is under way right now and we
9 expect that report by early June.

10 The Service also asked for a letter
11 describing exactly why we are proposing the sewer
12 route into Johnson Canyon. They do not like the
13 Johnson Canyon route, but there are compelling
14 reasons why it's being selected.

15 And they just want all that laid out in
16 writing. And that really goes back to the siting
17 of the project years ago, and the infrastructure
18 that exists and is proposed for the Otay Mesa
19 area.

20 And the fifth thing the Service wants to
21 see is the Generating Company has proposed to fund
22 an endowment, the earnings of which will be used
23 to manage land for the benefit of the quino
24 checkerspot.

25 The project's nitrogen deposition to the

1 east of the power plant may have a small, we think
2 insignificant, effect on quino checkerspot
3 habitat. But the Generating Company wants to step
4 up to the plate. And we've suggested an
5 endowment, and we need to structure, you know, our
6 first offering of that. And they would like to
7 see that before the consultation is formally
8 initiated. And then the details will be worked
9 out during the consultation.

10 So those are the five things needed to
11 start the consultation.

12 The process itself will be participated
13 in fully by Fish and Game, as well as Fish and
14 Wildlife because under the California Endangered
15 Species Act there is a provision that if all the
16 species that are listed by the state are also
17 listed by the feds, and all the provisions that
18 have to be satisfied to meet the California
19 Endangered Species Act are met by the biological
20 opinion, the state does not have to have a
21 separate permit process. They can simply declare
22 that the biological opinion is consistent with the
23 Endangered Species Act and CEQA requirements, and
24 adopt the biological opinion.

25 And because Fish and Game is a very

1 active participant in this we are confident that
2 this is going to happen and it will take 30 days
3 after the issuance of the opinion to receive Fish
4 and Game approval.

5 And that approval will not have to wait
6 on the issuance of the final Commission decision.
7 That may be a fine point which most people here
8 wouldn't appreciate, but normally for Fish and
9 Game you get a separate 2081B permit authorizing
10 take of state-listed species. And before Fish and
11 Game can issue that, they have to have a final
12 CEQA document.

13 To adopt a biological opinion they do
14 not have to have a final CEQA document. So that
15 means that the Fish and Game approval can come
16 before certification of the project by the
17 Commission.

18 Any other questions about the biology?

19 COMMISSIONER PERNELL: I have none.

20 PRESIDING MEMBER LAURIE: Thank you.

21 HEARING OFFICER GEFTER: Staff.

22 MS. ALLEN: We agree with Ms. Guldman's
23 summary of the information needed by the Fish and
24 Wildlife Service. And the applicant is working on
25 that.

1 Mr. Ogata is going to provide some
2 clarification on the item I mentioned earlier
3 regarding the linkage between the air district's
4 final determination of compliance, the EPA's
5 prevention of significant deterioration permit,
6 and the biological opinion.

7 MR. OGATA: This is Jeff Ogata, Staff
8 Counsel. We had an interesting situation in this
9 case in which typically the air district issues
10 its PSD permit along with the final determination
11 of compliance.

12 In this case, because USEPA has a
13 concern about the quino checkerspot butterfly
14 there was some potential for a delay in EPA's
15 comments with respect to the PSD permit.

16 And so because there was concern about
17 the timing of that, we asked EPA and we've checked
18 with the district -- through EPA as to whether or
19 not they would consider issuing an FDOC which
20 would be in final form separate from the PSD,
21 which would not be in final form.

22 And the reason for that would be to
23 allow staff to go ahead and issue the air quality
24 FSA. And if there was going to be a delay it
25 would only be in biology, not both areas.

1 So, our understanding is that the
2 district has tentatively agreed to do that as soon
3 as they receive EPA's final approval. And my
4 understanding is that EPA's final approval is just
5 awaiting confirmation among themselves that that
6 process is acceptable in terms of timeframe.

7 There is another kind of related issue
8 with respect to the Commission's process that our
9 other staff attorneys have been working on with
10 EPA, and it has to do with the timing of the PSD.

11 At this point we'll be asking air
12 districts to issue a PSD in an almost final form.
13 And after the evidentiary hearings, the districts
14 will then issue a final PSD in which they can then
15 reference the fact that they've taken into
16 consideration all the information presented at the
17 evidentiary hearings.

18 And so that's another process that we're
19 overlaying on the district in this case. So EPA
20 is considering all that information and my
21 assumption is that they'll agree that that's
22 acceptable and they'll relay that to the district
23 and everything will work out just fine.

24 HEARING OFFICER GEFTER: Why is the EPA
25 the trigger agency for the section 7 review in

1 this case?

2 MR. OGATA: I think Ms. Guldman can
3 answer that better than me.

4 MS. GULDMAN: Sandy Guldman. The EPA is
5 concerned with the air quality impacts. And the
6 issue with the quino checkerspot is nitrogen
7 deposition from the combustion of the natural gas
8 in the power plant.

9 And the area of highest concentration
10 falls in the hills east of the power plant where
11 there is a quino checkerspot butterfly population.
12 And the mechanism is that the nitrogen, the added
13 nitrogen from the power plant will promote the
14 non-native grasses at the expense of the host
15 plant for the quino checkerspot larvae.

16 So, it's a second order impact on
17 vegetation.

18 HEARING OFFICER GEFTER: My question
19 really goes more to administrative process, so I
20 wanted to find out why, in this case, we are
21 waiting for EPA to trigger the section 7 review
22 instead of U.S. Fish and Wildlife or another
23 federal agency.

24 MS. GULDMAN: Well, Fish and Wildlife
25 cannot, except in the case of a habitat

1 conservation plan under section 10, can't consult
2 with itself. So the EPA is the agency that's
3 initiating the consultation because they have the
4 strongest nexus, you know, with the proposed
5 action and impact on a listed species. So they
6 are the agency initiating the consultation.

7 HEARING OFFICER GEFTER: With Fish and
8 Wildlife?

9 MS. GULDMAN: With Fish and Wildlife
10 Service.

11 HEARING OFFICER GEFTER: Okay, I also
12 have a question for staff regarding the
13 requirement for a biological opinion prior to
14 final Commission decision. What's staff's view on
15 that?

16 MR. OGATA: As in the past we certainly
17 would prefer to have the final opinions before we
18 issue our final staff assessment so we have
19 absolute certainty as to what the results of those
20 other agencies' opinions are.

21 However, we have also allowed ourselves
22 the luxury of issuing the final staff assessment
23 in those situations where we are extremely certain
24 of what the outcome is going to be, without having
25 to see the final document. And typically that's

1 not too difficult because our staff always works
2 hand-in-hand with all the other agencies. So we
3 typically have a very certain understanding of
4 what the problems are, what mitigations are going
5 to be required, what conditions will be imposed.

6 So our preferences is to receive final
7 opinions in writing. However, if it appears that
8 we understand what the final outcome is going to
9 be and time pressures requires to issue an FSA
10 before we do that, we will do that.

11 In those situations, however, where it
12 is not clear what the impacts and the mitigation
13 or the conditions will be, then we will definitely
14 not issue an FSA.

15 HEARING OFFICER GEFTER: In this case it
16 appears that the schedule is anticipated, and
17 based on the discussion in the last few minutes it
18 looks like if we get to a final Commission
19 decision we will not have either the biological
20 opinion or the PSD permit in hand.

21 MR. OGATA: I guess I'm not clear what
22 you're saying. I don't believe that to be true --

23 HEARING OFFICER GEFTER: All right, what
24 is --

25 MR. OGATA: -- you're asking a more

1 timing question?

2 HEARING OFFICER GEFTER: It's more of a
3 timing question.

4 MR. OGATA: Perhaps Ms. Guldman can
5 answer that, as well, she's probably more familiar
6 with the timing. But I don't believe that's going
7 to happen. I believe we're going to have those
8 things in hand.

9 HEARING OFFICER GEFTER: Will we have
10 them before the evidentiary hearing?

11 MS. GULDMAN: I'm Sandy Guldman.

12 HEARING OFFICER GEFTER: Yes.

13 MS. GULDMAN: We expect to have the
14 final biological opinion early in September. The
15 Service has committed to that deadline.

16 So that would be before the time when in
17 the overall project schedule submitted with our
18 package shows the evidentiary hearings.

19 But Allan may want to comment on the
20 schedule.

21 HEARING OFFICER GEFTER: Well, it also
22 says that Fish and Game is going to issue a
23 biological opinion 30 days after Fish and
24 Wildlife.

25 MS. GULDMAN: No, Fish and Game simply

1 says we adopt --

2 HEARING OFFICER GEFTER: All right.

3 MS. GULDMAN: -- Fish and Wildlife's
4 biological opinion without -- they don't change a
5 word. They just say we've participated in this.
6 It meets all our statutory requirements. We adopt
7 it.

8 So everything that would need to be
9 known by way of mitigation measures would be known
10 in early September when the Service issues the
11 biological opinion.

12 HEARING OFFICER GEFTER: So, then why
13 are we then waiting -- a PSD permit would not be
14 issued until after the biological opinion is
15 issued.

16 MS. GULDMAN: That's my understanding,
17 but --

18 HEARING OFFICER GEFTER: Okay.

19 MS. GULDMAN: -- I'm not the air expert.

20 HEARING OFFICER GEFTER: All right.
21 I'll ask Mr. Thompson.

22 MR. THOMPSON: Thank you. My
23 understanding is that we anticipate getting a
24 biological opinion early September, and hearings,
25 our best guess, would be sometime in September.

1 Our experience in past cases is that the
2 staff works very well and very closely with
3 federal and other state agencies, in particular
4 the biology area. And my personal experience is
5 that staff usually has a very good idea of -- a
6 very complete idea of what will be required in
7 those documents, and has been a part of the review
8 of draft of those documents before they come out.

9 So, I would hope that we could do what
10 we have done in the past cases, and allow, in this
11 case, maybe the PSD and maybe the biological
12 opinion, to come out on or slightly before, maybe
13 even after the hearings, but provided that the
14 staff has a good idea of what they will contain.

15 HEARING OFFICER GEFTER: I think I
16 follow the timeline here. Are there any other
17 questions on biological resources?

18 MR. OGATA: Ms. Gefter, if I may?

19 HEARING OFFICER GEFTER: Yes.

20 MR. OGATA: I don't know if you got a
21 response to the question about the PSD, the final
22 PSD. As I stated before, -- well, the biological
23 issue should be resolved prior to evidentiary
24 hearings or thereabouts.

25 But the PSD will remain a quote,

1 "interim PSD" until after the evidentiary
2 hearings. That will be by design, not because
3 there's some outstanding information that's
4 required.

5 HEARING OFFICER GEFTER: I understood
6 that from your previous comment. And perhaps
7 staff would want to, at some point, explain why
8 you're proposing this. But we don't need to do
9 that right now. We can do that during evidentiary
10 hearings.

11 I think we'll move on then to the next
12 topic, which is transmission system engineering.
13 Does applicant want to go forward on that topic?

14 MS. SEGNER: Sharon Segner, PG&E
15 Generating. At this point I'm going to ask Don
16 Dankner, he is with Winston and Strawn, and is
17 outside counsel to PG&E Generating, to give a
18 statement on the status of the transmission issue.
19 Our belief is that there has been significant
20 progress and resolution on the issues. And Don
21 will walk through the issues.

22 What is being passed out to you is
23 essentially a smaller version of the maps that you
24 see around the room which outlines what the
25 various proposed transmission reinforcements are.

1 And perhaps will be easy to follow along as Don is
2 giving his comments, as well.

3 MR. DANKNER: And we've also passed out
4 the comments. My name is Don Dankner. I'm an
5 attorney with the lawfirm of Winston and Strawn.
6 And I represent Otay Mesa in connection with its
7 interconnection request to have its generating
8 facilities or project connected to the system of
9 San Diego Gas and Electric.

10 Pursuant to SDG&E's transmission owner
11 tariff, Otay Mesa applied to interconnect the
12 project to SDG&E's existing Miguel Tijuana line at
13 the Miguel substation, which you can see on the
14 map.

15 HEARING OFFICER GEFTER: The maps are
16 now being distributed, thank you.

17 MR. DANKNER: Here is Otay Mesa on the
18 map.

19 HEARING OFFICER GEFTER: Excuse me, may
20 we give the reporter a copy of the map, please.
21 And also when you refer to the map could you
22 indicate for the record where you're pointing,
23 because she can't write the map into the record.
24 Just indicate.

25 MR. DANKNER: I'm pointing now to the

1 Otay Mesa Power Plant. And Otay Mesa applied to
2 SDG&E to have the power plant connected to the
3 Miguel substation which is to the northwest of the
4 plant. And I'm pointing to the Miguel substation.

5 Under the SDG&E TO tariff there's a two-
6 step process for handling an interconnection
7 request. First, SDG&E prepares a system impact
8 study. Then it performs a facility study to
9 determine the necessary upgrades for the
10 interconnection.

11 On July 22, 1999, SDG&E issued a system
12 impact study based on Otay Mesa's request. On
13 December 20, 1999, Otay Mesa and SDG&E executed a
14 facilities study agreement pursuant to which Otay
15 Mesa paid SDG&E to perform a study to determine
16 the facilities needed to connect the project at
17 the Miguel substation.

18 The agreement provided for SDG&E to
19 complete the study within 60 days, and if it could
20 not do so, to use its best efforts to finish the
21 study.

22 Nearly five months later, on May 9,
23 2000, SDG&E issued the facilities study final
24 report. The report concluded that the plan of
25 service to connect the project to the Miguel

1 substation is well defined, but the requirements
2 beyond Miguel were uncertain.

3 The report identified three options
4 beyond Miguel, options A, B and F, and requested
5 the California ISO to make a recommendation as to
6 the needed facilities for the requested
7 interconnection.

8 I'm moving to the map now. Option A is
9 indicated in red, and basically involves putting
10 in a reconductored line down to the El Cajon
11 substation, plus some additional transformers.

12 Option B involves building a major
13 transmission line from the Miguel substation to
14 the Mission substation.

15 Option F is a remedial action scheme
16 that relies on the operation of existing
17 facilities and requires no new facilities beyond
18 Miguel.

19 In a letter dated May 19, 2000, a copy
20 of which is attached to my statement, the ISO
21 recommended that the project be connected to the
22 grid by means of what it called option I, which
23 consists of only those transmission reinforcements
24 identified in the report between the project and
25 the Miguel substation.

1 Going to the map option I is represented
2 by this green line between the Otay Mesa Power
3 Plant and the Miguel substation.

4 The ISO concluded that these
5 reinforcements, in conjunction with ISO congestion
6 management procedures, mitigated any reliability
7 problems beyond the Miguel substation associated
8 with congestion. Thus, options A, B or F were not
9 required for the interconnection.

10 The ISO further concluded that the
11 reliability problems identified in the report
12 between the Miguel substation and SDG&E's load
13 centers are not related to the interconnecting
14 project, but rather represent a pre-existing
15 condition.

16 Otay Mesa agrees with the ISO's option I
17 recommendation and its supporting conclusions.
18 Otay Mesa has also been informed by the ISO that
19 SDG&E concurs with option I.

20 Thus, the only facilities required for
21 and relevant to the interconnection of the project
22 are the transmission reinforcements between the
23 project and the Miguel substation.

24 That concludes my statement.

25 HEARING OFFICER GEFTER: Question. Does

1 this resolve the matters that were brought up to
2 us at the informational hearing regarding
3 transmission system engineering?

4 MR. THOMPSON: If you're asking
5 applicant we believe it does. The green line, the
6 line that was pointed out, the option that is
7 currently being followed, recommended by the ISO,
8 recommended by us, basically approved by the ISO
9 and agreed by SDG&E is the line that has already
10 been the subject of environmental studies, and is
11 the line that that information is contained in the
12 AFC.

13 HEARING OFFICER GEFTER: Okay. Is there
14 a representative here now from SDG&E? There's a
15 representative from Cal-ISO here. Could you come
16 forward just a minute and perhaps you can clarify
17 this.

18 Please identify yourself.

19 MR. TOBIAS: Larry Tobias, representing
20 the ISO.

21 HEARING OFFICER GEFTER: The question I
22 have is regarding the letter where it says that
23 SDG&E agrees with this conclusion. How does ISO
24 know this?

25 MR. TOBIAS: It's informal at this point

1 in time via phone conversation. When they
2 transmitted their final information that became
3 part of the letter that I sent out on Friday.

4 And so this needs to be formalized
5 between PG&E Gen and SDG&E, that they're both in
6 agreement on this.

7 HEARING OFFICER GEFTER: Thank you.

8 PRESIDING MEMBER LAURIE: Let me ask a
9 question of staff or applicant. The
10 interconnection agreement, once there's an
11 interconnection agreement is there normally a set
12 of conditions that flow through the
13 interconnection agreement that says we will
14 connect you provided you do 1 through 25? Very
15 similar to a water will-serve letter.

16 MR. DANKNER: The way it works is there
17 will be an interconnection agreement between Otay
18 Mesa and SDG&E that will provide that Otay Mesa
19 pay for the option I facilities, essentially the
20 line and substation between the plant and Miguel.

21 The interconnection agreement will also
22 have standard terms and conditions regarding the
23 operation of the interconnect. And the agreement
24 will be filed at FERC where FERC will approve the
25 cost of the direct facilities assignment and the

1 terms and conditions.

2 PRESIDING MEMBER LAURIE: Okay.

3 Question to staff. Will your analysis include the
4 environmental analysis of option I, or is that
5 environmental analysis done by some other body?

6 MS. ALLEN: Our environmental analysis
7 will include option I. In all cases affected by
8 option I, the PSA has addressed it. The option of
9 reinforcement from the Otay Mesa plant site to
10 Miguel was part of the project description
11 received in the AFC in August. So our analysis
12 addresses that, the potential impacts of that.

13 HEARING OFFICER GEFTER: From your
14 comments I understand that SDG&E basically
15 deferred here to Cal-ISO's analysis, is that
16 correct?

17 MR. DANKNER: That's correct. Yes, and
18 I would say, too, that they followed their tariff.
19 Their tariff provides that ISO congestion
20 management should be applied before new facilities
21 are assigned to an interconnecting generator. And
22 the ISO determined that congestion management
23 resolved all the congestion beyond Miguel.

24 COMMISSIONER PERNELL: How long is
25 option I? How long is this line?

1 MR. DANKNER: Sharon, do you know?

2 MS. SEGNER: Sharon Segner, PG&E
3 Generating. I believe the line is 9.2 miles. It
4 is an existing line, as well. And it involves
5 reconductoring that line.

6 PRESIDING MEMBER LAURIE: So it's not a
7 new line. There will be reconductoring. I'm not
8 sure I have an understanding what that means, but
9 that's okay.

10 So, is it staff's anticipation that the
11 environmental analysis on that portion of the
12 project being reconductoring will be relatively
13 insubstantial?

14 MS. ALLEN: In most instances I'd say
15 yes. I'm not aware of any findings of significant
16 impact related to the reconductoring process,
17 which simply means adding new wires to the
18 existing set.

19 PRESIDING MEMBER LAURIE: Okay.

20 MS. ALLEN: And occasional tower
21 reinforcement.

22 PRESIDING MEMBER LAURIE: That's fine,
23 thank you. Thank you, sir.

24 MR. DANKNER: Okay.

25 HEARING OFFICER GEFTER: We're going to

1 move on to the next topic which is the question of
2 land use. Applicant had a presentation on that
3 topic?

4 MR. THOMPSON: Yes. Even though the
5 slides in general were prepared by Ms. Segner, Al
6 Williams of the Generating Company will discuss
7 the land use issues.

8 HEARING OFFICER GEFTER: Thank you. Mr.
9 Williams.

10 MR. WILLIAMS: Thank you.

11 HEARING OFFICER GEFTER: Please identify
12 yourself for the record.

13 MR. WILLIAMS: My name is Alan Williams.
14 I am Project Engineer for the Otay Mesa project
15 for PG&E Generating Company.

16 As you can see from the slide on April
17 12, 2000, the San Diego Board of Supervisors
18 approved unanimously the recommendation to the
19 California Energy Commission that they were
20 approving the generating project.

21 We have a land use variance approved,
22 and essentially all land use issues with the
23 county have been significantly resolved.

24 I would go on to offer that in the PSA
25 we failed to work closely with Energy Commission

1 Staff, while at the same time we were working very
2 closely with County Staff and the landscaping and
3 grading plans, site plans, all the issues raised
4 in the preliminary staff assessment have been
5 substantially resolved with staff at the County.
6 And we, through our workshop with the Energy
7 Commission Staff last week, I believe we are on a
8 clear path to bring staff up to date with where we
9 are with the County Staff.

10 To my knowledge there are no substantial
11 issues in that.

12 HEARING OFFICER GEFTER: Does that
13 include issues raised in the visual resources
14 topic in the PSA?

15 MR. WILLIAMS: Yes, I would actually
16 prefer to let the Commission Staff address that.

17 Very briefly my understanding is the one
18 outstanding visual issue was based upon a
19 presumption that the Alta Road was actually a
20 feeder route into Otay Lakes. And our independent
21 attempt to get there in a rent-a-car was blocked
22 by the sheriff at the prison who informed us that
23 it is indeed a dirt road for off-road, four-wheel-
24 drive use only. And I believe the visual
25 question, as a significant route, then goes away.

1 HEARING OFFICER GEFTER: All right.

2 MR. THOMPSON: Thank you. Mr. Williams,
3 while you're up there, on the agenda that was
4 distributed this morning the area of soil and
5 water resources is also a topic area.

6 Would you address topics under those
7 areas, please. We don't have a slide.

8 MR. WILLIAMS: I'll just talk my way
9 through it. Briefly, three issues were raised.
10 One, the issue of tying in with the Otay Mesa
11 Water District's plans for supplying and using
12 reclaimed water.

13 The second one was a spill prevention
14 plan for the facility for storm water management.

15 And the third was the wastewater
16 application for our industrial wastewater
17 discharge.

18 On the reclaimed water line we have had
19 discussions with the Otay Water District, and we
20 will conform to their requirements for dual
21 plumbing in order to adopt reclaimed water when
22 that system is available.

23 We will also plan on using reclaimed
24 water for our irrigation purposes, which is in
25 line with the County's requirements for reclaimed

1 water use.

2 Spill prevention plan, we are in the
3 process of preparing that. It also ties back to
4 some of the details we have yet to work out with
5 our drainage plans. And we want to work those
6 together.

7 And the third issue, the industrial
8 wastewater application, we have made copies of
9 that, or are making copies of that available to
10 CEC Staff as part of our comments back to on the
11 PSA.

12 HEARING OFFICER GEFTER: Thank you.
13 Staff, could you go forward now on the topic of
14 infrastructure land use, and then also comment on
15 his comments on soil and water?

16 MS. ALLEN: Sure. I can address visual,
17 too, if you'd like.

18 With respect to land use we have talked
19 with the applicant about receiving the latest
20 version of the landscaping and grading plans. I
21 was in the office briefly yesterday and found that
22 the County had sent me a long tube that looked
23 like it may have had the latest plans. I didn't
24 have a chance to open it, but we will be reviewing
25 it this week and talking with the County about

1 their conclusions. I'm satisfied that all parties
2 are progressing on this item.

3 With respect to soil and water
4 resources, the applicant has said that they're
5 working with the local agencies, and they will be
6 providing us the information requested.

7 As far as local infrastructure, San
8 Diego County does seem to be moving forward on
9 various steps that are needed to provide service
10 for fire protection, police services through the
11 County Sheriff's office, sewage treatment
12 connection and water.

13 It doesn't seem to move rapidly in that
14 the Otay Mesa Project is the first developer to be
15 in line and there are other developers that are
16 interested, but haven't come to a financial
17 commitment with the County, so there needs to be
18 commitment to a fair share allocation. It seems
19 as if this fair share process takes awhile.

20 The County representative told us last
21 week in a PSA workshop that they are getting ready
22 to select a consultant for a study on fire
23 protection services.

24 So, we're talking with them about how we
25 can expedite this local process as much as

1 possible.

2 PRESIDING MEMBER LAURIE: Well, let me
3 ask a question in that regard. It's the
4 Committee's obligation to review all the evidence
5 presented and determine whether or not there's an
6 impact. In this case it's a social service
7 impact.

8 It's then also the Commission's
9 obligation to determine what proper mitigation is.
10 And I believe the Commission has a great deal of
11 discretion to determine what proper mitigation is.

12 We would hope that a recommendation as
13 to what proper mitigation is would be presented in
14 the form of an agreement. It is the Committee's
15 belief, I believe, that we are free to impose
16 mitigation measures based upon the evidence in
17 front of us with or without an agreement.

18 We therefore encourage all parties, if
19 they desire to have input into the question, to
20 reach an agreement by the time we might act.
21 Because we need not wait.

22 HEARING OFFICER GEFTER: Anything
23 further on that topic from the staff?

24 MS. ALLEN: Nothing further on local
25 infrastructure. Would you like me to address

1 visual resources now, or wait until later?

2 HEARING OFFICER GEFTER: Let's do it now
3 since we've heard from the applicant on that
4 topic.

5 MS. ALLEN: Okay. I verified Mr.
6 Williams' conclusion regarding the lack of through
7 access on Alta Road to the Otay Lakes.
8 Recreational travelers to the Otay Lakes cannot
9 get through there coming from south of the
10 correctional facility on Alta Road.

11 We had a map discrepancy and I now have
12 a recent map that shows that there are gates on
13 that road in the area of the correctional
14 facilities. And I drove it and came to the same
15 conclusion that Mr. Williams did.

16 So, that discussion will be revised in
17 staff's final staff assessment on the visual
18 resources. And we will not be finding significant
19 impact for that item.

20 HEARING OFFICER GEFTER: Are there any
21 comments from any of the local agencies on the
22 topics of the local infrastructure or land use,
23 soil and water or visual resources? Anyone else?

24 PRESIDING MEMBER LAURIE: Question on
25 visual resources. I think I probably missed this,

1 Ms. Allen. Did you indicate that staff was going
2 to recommend a finding of no significance on
3 visual resources?

4 MS. ALLEN: That's correct.

5 PRESIDING MEMBER LAURIE: Referring to
6 your figures 1 and 2, what I can't garner from --
7 what I can't get a handle on is surrounding land
8 use from these two figures.

9 And I understand from the description
10 what sensitivities may be, but I need a better
11 explanation as to what the closest surrounding
12 residential and industrial/commercial sites might
13 be under the Otay Mesa specific plan.

14 Is there something in the staff report
15 that can show me that?

16 MS. ALLEN: I think that's addressed in
17 the land use section under planned land uses.
18 That would be page 85. Page 85 is the beginning
19 of the land use section. We're turning to the
20 discussion of -- existing land uses are discussed
21 on page 87.

22 Existing land uses within a one-mile
23 radius of the site include the state prison, the
24 county correctional facility, a metal fabricating
25 shop, which is almost immediately north of the

1 site perhaps 200 yards away; a minor amount of
2 commercial and industrial land uses that I think
3 are approximately three-quarters of a mile away.
4 And a large area of undeveloped land.

5 A single residence on Otay Mesa Road is
6 located approximately 3500 feet southwest of the
7 center of the power plant site. There are three
8 residences on Otay Mesa Road located outside the
9 one-mile radius, approximately 6000 feet from the
10 site.

11 That concludes the discussion of
12 existing land uses surrounding the site.

13 PRESIDING MEMBER LAURIE: Is there any
14 indication from the County of San Diego that the
15 generic appearance of the plant will act as a
16 barrier or will be an inhibition to further
17 industrial development?

18 MS. ALLEN: No. They have a number of
19 recommendations regarding the exterior features as
20 far as earth-tone paint colors, and the
21 landscaping features that they are interested in.
22 So they have talked with the Generating Company
23 about a number of things that they're interested
24 in, but it's been points that they have come to
25 agreement on.

1 So the County doesn't have any
2 objections to the power plant as far as the
3 exterior appearance.

4 PRESIDING MEMBER LAURIE: Thank you.

5 MS. ALLEN: The preliminary staff
6 assessment does have a discussion of planned land
7 uses in the area. Would you like me to summarize
8 that?

9 PRESIDING MEMBER LAURIE: Maybe. We'll
10 hear what Mr. Williams has to say.

11 MS. ALLEN: That's fine.

12 MR. WILLIAMS: Allan Williams, PG&E
13 Generating. I just wanted to add to Eileen's
14 comment that we have been working with the San
15 Diego County and at the present time we are in
16 nearly full conformance with almost all of the
17 requirement of the East Otay specific plan.

18 And we will be asking the County for
19 variances on those issues where we're not in exact
20 conformance.

21 Our preliminary discussions with County
22 Staff has indicated that it's highly likely that
23 those variances would be granted. And we feel
24 there are variances that fit into the nature of
25 the power plant and the terrain that we're trying

1 to build on that would allow those variances to be
2 an acceptable solution.

3 PRESIDING MEMBER LAURIE: And are those
4 variances aesthetically oriented?

5 MR. WILLIAMS: Yes. And they are such
6 things as the specific plan does not allow use of
7 a retaining wall, and we've asked for a use of
8 retaining wall in the switchyard. We need to get
9 a height variance, or height -- structure where
10 heights are higher than the specific plan allows,
11 especially the stack.

12 And how we treat and grade the slope, or
13 grade the slopes on the site. We need to get
14 variances from them. And as I say, preliminary
15 staff discussions indicate those are likely to be
16 granted.

17 PRESIDING MEMBER LAURIE: The point I
18 was trying to get at, and I'll direct this comment
19 to staff, is architecturally you can make a power
20 plant look like the Queen Mary if you wanted to.

21 I'm inclined to give great deference to
22 what the County determines its own needs are. And
23 am very disinclined to second-guess them unless
24 there's some other strong evidence of impact.
25 That otherwise means mitigation.

1 Thank you, sir.

2 MS. ALLEN: Are you expecting a comment
3 from staff on that?

4 PRESIDING MEMBER LAURIE: No, ma'am,
5 thank you.

6 HEARING OFFICER GEFTER: So we'll pass
7 on the list of proposed land uses because we can
8 look at what the PSA says.

9 MS. ALLEN: Fine.

10 HEARING OFFICER GEFTER: Do you have a
11 question for us?

12 MR. MEACHAM: Yes, Michael Meacham with
13 the City of Chula Vista. Like some of the
14 Committee Members, I wasn't quite sure about the
15 phrase reconductored. And I heard a brief comment
16 by staff which enlightened me quite a bit. But I
17 wonder if we could get a little bit more detail
18 about -- it sounds to me as if that suggests that
19 it's going to use existing towers and/or poles,
20 and that it's the addition of a line or lines.

21 I wondered if there were any terminators
22 or generators that would be placed additionally on
23 those towers or poles. And if they knew
24 approximately how many additional lines might be
25 added to those structures.

1 I guess I'm addressing that really to
2 PG&E and the development people, not to the staff.

3 MS. SEGNER: Sharon Segner, PG&E
4 Generating. My understanding is that the addition
5 of lines, there's currently six lines on the
6 Miguel Tijuana line; there would be an additional
7 six lines added, as well.

8 There are no new structures. They're
9 small wires --

10 MR. MEACHAM: When you say no new
11 structures, does that mean poles and towers and
12 things like terminators or amplifiers, and so it's
13 just lines on the towers?

14 MS. SEGNER: That's correct.

15 MR. MEACHAM: Thank you.

16 HEARING OFFICER GEFTER: The last area
17 that we haven't discussed is the reliability and
18 efficiency of the plant regarding natural gas
19 supply. And I'd like the applicant to address
20 that.

21 MS. SEGNER: Sharon Segner, PG&E
22 Generating. PG&E Generating was in receipt of the
23 staff data request on gas reliability. And those
24 answers to the staff data request were filed last
25 week with the CEC.

1 HEARING OFFICER GEFTER: What were your
2 responses?

3 MS. SEGNER: Our response was that our
4 view is that Otay Mesa is a positive impact from a
5 gas reliability standpoint. A baseload facility
6 in an environment where there are limited
7 transmission lines coming into San Diego. A
8 baseload facility makes the best and the highest
9 use of the limited transmission system.

10 HEARING OFFICER GEFTER: In other words
11 you're saying that the project will have a
12 significant impact on gas supply in the San Diego
13 region?

14 MS. SEGNER: No, we're not saying that
15 at all.

16 HEARING OFFICER GEFTER: Okay.

17 MS. SEGNER: The issues regarding gas
18 supply, first of all it is the obligation of San
19 Diego Gas and Electric to serve. It is the
20 obligation of San Diego Gas and Electric to plan
21 anticipated gas growth in San Diego, especially as
22 that relates to electrical generation.

23 And it is also the position of PG&E
24 Generating that gas issues in San Diego are
25 regional issues, rather than project-specific

1 issues.

2 HEARING OFFICER GEFTER: At this moment
3 what is the situation with gas supply to the
4 project?

5 MS. SEGNER: At this time we are in
6 discussions with San Diego Gas and Electric
7 regarding becoming a customer of San Diego Gas and
8 Electric. And a gas supply agreement has not been
9 signed.

10 At the time that we do sign with San
11 Diego Gas and Electric, or potentially sign, we
12 anticipate being a firm customer.

13 We also would note that our
14 understanding is that most of the other generators
15 in San Diego are not firm customers, are
16 interruptible, and also have fuel back-up. We do
17 not anticipate having fuel back-up as part of this
18 project.

19 COMMISSIONER PERNELL: Is there a
20 timeline on your anticipation of the agreement?

21 MS. SEGNER: PG&E Generating's view is
22 that we can enter into the gas fuel supply
23 agreement at any time prior to commencement of
24 operation of the facility.

25 COMMISSIONER PERNELL: Do they have to

1 have an agreement or some notable fuel supply
2 before we do a final?

3 MS. ALLEN: Staff will need an
4 indication of certainty of fuel supply before it
5 can produce its final staff assessment.

6 In order to come to more complete
7 conclusions in this area we need to have an open
8 discussion with San Diego Gas and Electric, the
9 applicant, Southern California Gas, and other
10 interested parties that are potential large gas
11 users in the area.

12 I've tentatively scheduled a PSA
13 workshop to discuss this topic for June 5th. I've
14 yet to hear from some of the principals like SDG&E
15 and SoCalGas about whether they can make that
16 date.

17 PRESIDING MEMBER LAURIE: Just a note to
18 staff. We understand the relevant nature of this
19 issue. We also understand the importance of
20 having these folks come to the table. If there's
21 any challenge in getting these folks to the table
22 to have an open and complete discussion, please
23 let the Committee know so the Committee can
24 perhaps participate in such communication.

25 MS. ALLEN: Thank you for that. San

1 Diego Gas and Electric's representative has told
2 me informally that they think this is a matter
3 before the Public Utilities Commission, that it's
4 not relevant to the Energy Commission proceedings.
5 Clearly, staff disagrees. We think it is relevant
6 to this project. And I'll appreciate your
7 options.

8 PRESIDING MEMBER LAURIE: So, it's
9 SDG&E's view that we do not need what amounts to a
10 will-serve gas letter before we certify?

11 MS. ALLEN: Their position is ambiguous.
12 That's one of the reasons why we've asked them to
13 come and talk with us.

14 When Ms. Fleming of Semptra told me that
15 she thought this was an item before the CPUC, I
16 think she was addressing the possibility of SDG&E
17 expanding their gas pipeline supply system. And
18 the funding that they would need for that.

19 As far as a will-serve letter, they
20 might allow that that's more pertinent to this
21 particular project. But, we aren't aware of any
22 dates when they plan to bring it forward.

23 PRESIDING MEMBER LAURIE: Okay, well,
24 the --

25 MS. ALLEN: We want to know.

1 PRESIDING MEMBER LAURIE: -- the
2 question that I would have to be discussed by the
3 Committee and otherwise, is I don't know how we do
4 an environmental analysis, as may be legally
5 required, unless we have that will-serve letter.

6 Because without that will-serve letter
7 which would have conditions attached to it, we
8 don't know what the environmental analysis might
9 have to analyze. It's an unknown.

10 And I don't think we can do that. Those
11 comments are not to be interpreted as a conclusive
12 statement, because we haven't discussed it, but as
13 of this moment it is of concern to me. And I'm
14 inclined to believe that we need that will-serve
15 letter. But, again, we will discuss that at the
16 Committee level.

17 That's all, thank you, Ms. Allen.

18 HEARING OFFICER GEFTER: Mr. Claycomb,
19 do you have a comment on this topic?

20 MR. CLAYCOMB: William E. Claycomb, Save
21 Our Bay, Inc., Intervenor. I think you should
22 well be concerned because I assume, although I
23 haven't heard anybody mention it, that you're
24 aware of the fact that there are two 540 megawatt
25 gas-fired generators going in Rosarita being fed,

1 I think, by the same pipeline.

2 So, until you have a guarantee that
3 there's going to be a supply of gas to this,
4 everything's up in the air.

5 HEARING OFFICER GEFTER: Thank you. Any
6 other comments on this topic?

7 MS. SEGNER: It is our understanding
8 that under the CPUC's rules that the Rosarita
9 facility and Mexico facilities do have similar
10 standing and equal standing to other San Diego
11 generation.

12 HEARING OFFICER GEFTER: Mr. Magie.

13 MR. MAGIE: Scott Magie, NRG Energy.
14 From our understanding, or our situation with our
15 facility, which is the Carlsbad facility up in
16 north county, the gas supply is a critical issue.
17 We are an interruptible customer, and because of
18 that purpose, for that reason that's why we have
19 dual fuel supply. Basically a number 6 residual
20 fuel.

21 Our perspective, we'd prefer not to have
22 that. It does create a lot of other issues
23 associated with the facility. But because of the
24 gas supply issue with SoCalGas and Semptra, we do.

25 So it is a critical issue and it's also

1 an issue for us. Thank you.

2 HEARING OFFICER GEFTER: Thank you.

3 MS. SEGNER: We'd also agree it's a
4 regional issue that all generators have an
5 interest and stake in the issue. It's not an Otay
6 Mesa-specific issue. It's a regional issue.

7 COMMISSIONER PERNELL: I think from the
8 standpoint of the Committee, and I would agree
9 that it's a possibility that it's a regional
10 issue, but we need to have some certainty that
11 there's fuel before we go forward.

12 Now, whether it's a regional issue or a
13 state issue or whatever, we need to have some
14 certainty that there's a fuel supply before we go
15 forward with Otay Mesa. And I think that's our
16 point, or at least certainly mine.

17 MS. SEGNER: Can I ask a question of
18 clarification? When you say before we go forward,
19 what timeframe or what milestone does that
20 trigger?

21 COMMISSIONER PERNELL: Well, you have
22 issued a timeline in your report that you gave us.

23 MS. SEGNER: Yes, sir.

24 COMMISSIONER PERNELL: And in that we
25 have approximately three months slippage already.

1 So before we issue a final determination, we want
2 to know or have some certainty, according to
3 staff, that there's an adequate fuel supply. Is
4 that unreasonable, or --

5 MS. SEGNER: No.

6 COMMISSIONER PERNELL: Okay.

7 PRESIDING MEMBER LAURIE: Let me follow
8 up with a question of timing. Gas supply, to me,
9 would be analyzed in the same manner as water
10 supply. That is there has to be a commitment of
11 such.

12 From our environmental analysis
13 perspective, the importance of the timing is that
14 if there are conditions in example, the form of
15 improvements required to serve, and those
16 improvements have a possibility of creating their
17 own environmental impacts, then we would be
18 obligated under the law to examine what those
19 impacts are.

20 And so -- first of all, understand that
21 we're going to have a lot of discussions on this
22 before we finally conclude that. But that would
23 be my understanding as of this moment.

24 So it wouldn't do us any good, the day
25 before going into evidentiary hearings, or the day

1 after evidentiary hearings, or during evidentiary
2 hearings.

3 We see a will-serve letter that says,
4 yes, we will supply gas. In order to do so this
5 12-mile line has to be constructed, and this has
6 to be done, and this has to be done. Because
7 those projects have their own environmental
8 impacts, which I believe would necessitate an
9 examination on our part.

10 So, I believe we have to have an
11 understanding as to what those improvements might
12 be in sufficient time to allow us to do the
13 analysis.

14 Now, it could be that whoever is going
15 to construct might be doing their own
16 environmental analysis when they're ready to go
17 with the project, but what we'll be discussing is
18 what we think the law requires us to do when those
19 needed improvements are, in fact, specifically
20 described, and whether they become a part of your
21 project.

22 So that would be my timing concern.

23 MS. SEGNER: Would the environmental
24 impacts assessment be required if the need was
25 already a pre-existing condition, without Otay

1 Mesa? Similar to the transmission.

2 PRESIDING MEMBER LAURIE: Just
3 speculating, I would anticipate that if the needs
4 had already been identified, then there would
5 already have been an environmental analysis done
6 on it, which we could rely on and adopt as may be
7 necessary. Or we would already have that included
8 in the project description.

9 So I don't know the answer to that one
10 today. And the Committee's going to have to look
11 at that question.

12 I am concerned from a legal obligation
13 standpoint of what we might have to do in that
14 regard. No different, I think, than if the
15 project were dependent upon the construction of a
16 freeway interchange. And our inability to
17 approve the project until we knew what the
18 environmental implications of the freeway
19 interchange were. I believe it's the same.

20 So it may not be an issue of what we
21 would like to do. I think it's an obligation of,
22 or it's a question of what the environmental laws
23 mandate us to do.

24 And we may, in fact, seek parties' input
25 on that question.

1 MS. SEGNER: One question that I would
2 have is that if the existing generation facilities
3 under the California ISO's direction are required
4 to have fuel backup already in San Diego to
5 maintain reliability, wouldn't the need for
6 additional capacity coming into San Diego already
7 be a preexisting condition?

8 And so therefore any system benefits and
9 upgrades would therefore be system rather than
10 related to Otay Mesa?

11 PRESIDING MEMBER LAURIE: Proper
12 question, and I, for one, do not know the answer
13 to that today.

14 MR. THOMPSON: Mr. Commissioner, there
15 is a difference between a water will-serve or
16 other examples. I think what we may be looking at
17 here are additions to the system quite far
18 upstream.

19 The applicant has put in two
20 interconnection spots, and those do not have to be
21 changed, I don't believe.

22 But what may have to be changed or added
23 to in the natural gas system could possibly be
24 connections in the Los Angeles area or the El Paso
25 lines coming from Arizona into the L.A. Basin.

1 More growth systemwide changes to increase the
2 through-put to southern California.

3 Again, I think maybe that's what Ms.
4 Segner was referring to when she was talking about
5 a regional approach.

6 PRESIDING MEMBER LAURIE: Okay, thank
7 you.

8 HEARING OFFICER GEFTER: All right, I
9 want to go on and talk about the schedule a bit,
10 and then I'm going to ask for public comment. I
11 know Mr. Claycomb had some comments that he
12 indicated for us on a blue card.

13 So, let's do the scheduling issue first.
14 What we have all agreed to on the record so far is
15 that it looks like it's about a three-month
16 slippage at this point.

17 Three months past the existing Committee
18 schedule in which we were anticipating a
19 prehearing conference to occur sometime at the end
20 of June. And at this point we would look at a
21 prehearing conference to occur sometime in
22 September prior to evidentiary hearings.

23 So what we would do then is to slip the
24 schedule three months past the existing revised
25 Committee schedule, based on today's discussion.

1 And the applicant has distributed a
2 proposed overall project schedule at the back of
3 your handout today. And looking at it, what I
4 would also like to indicate on the record is that
5 you have an optimistic FDOC issue date of August
6 1st. What I would like to see us look at is
7 perhaps a more generic kind of 60 days after the
8 issuance of the PDOC, rather than locking us into
9 a particular date.

10 Because at this point you're
11 anticipating the PDOC to be issued on June 1st.
12 Generally it's about a 60-day turnaround. If that
13 can happen, we'd have 60 days after the PDOC would
14 be the FDOC, turnaround date.

15 Then we would have staff's FSA based on
16 the final determination of compliance, usually
17 occurs perhaps 30 to 45 days after an FDOC.

18 Around that same time we have a
19 prehearing conference which would be sometime in
20 September, and then we would schedule evidentiary
21 hearings after that.

22 I would like to continue our schedule
23 based on sort of general end-of-the-month, mid-
24 month, and early-month, rather than giving us,
25 locking us into dates. Because as we -- see, even

1 our time, we wanted to get out of here by 4:00
2 p.m., and, you know, we're already maybe going to
3 miss it by a minute or two, we hope not.

4 So, if applicant could comment, perhaps
5 on this discussion, let's start with you.

6 MR. THOMPSON: I think that applicant
7 agrees with the observations by the Committee. We
8 have been led to believe that the PDOC will be out
9 on or before June 1, but obviously these are areas
10 in which we have little or no control.

11 We have no objection to the time limits
12 that have been built in between key events. And
13 note, as I know, that staff has noted, that the
14 time between the preliminary DOC and the air PSA
15 is 45 days. And I know they usually feel very
16 strongly about that.

17 We also incorporated kind of the usual
18 60 days between the PDOC and the FDOC, and that's
19 how we arrived at August 1.

20 So, we have no objection to an early-,
21 late- and end-of-month designations and have no
22 objection to those time periods being built into
23 the schedule instead of specific dates.

24 HEARING OFFICER GEFTER: All right. I
25 also wanted to indicate that if evidentiary

1 hearings are completed, say, by the end of
2 September or end of October, you know, in that
3 month period, the Committee needs about a 60-day
4 turnaround to get out a PMPD, and that was not
5 necessarily built into this schedule that was
6 proposed by applicant. So I did want to alert you
7 to that turnaround time.

8 And then there's also another, there's
9 at least, at the very least 30 days, but more
10 likely 45 to 60 days between a PMPD and a final
11 Commission decision.

12 MR. THOMPSON: If the Committee would
13 please note that we thought we were being very
14 generous in giving you about 70 days.

15 HEARING OFFICER GEFTER: Thank you.

16 MR. THOMPSON: But we recognize those
17 timeframes.

18 HEARING OFFICER GEFTER: At this point
19 then I'd like to ask Mr. Claycomb to come forward,
20 and I know that you have a few comments you'd like
21 to address to the Committee.

22 MR. CLAYCOMB: Yes, William E. Claycomb,
23 Save Our Bay, Inc., Intervenor.

24 We have been granted financial hardship
25 status as an intervenor. And we did file data

1 requests. They were docketed April 25th, and the
2 other one was a month or so later. Those weren't
3 served until 5/17.

4 What they were asking for we don't think
5 that an adequate analysis of alternatives has been
6 made. The analysis done compared to production
7 using photovoltaic cells, silicon photovoltaic
8 cells, and 27 small installations -- I want to
9 call it projects -- here in the County that
10 produced 70 kilowatts. And that was compared as
11 an alternative to the Otay Mesa Generating Plant,
12 which is producing 510,000 kilowatts.

13 So, I don't think it makes a valid
14 comparison. So I think what will have to be done
15 is to take a good look at photovoltaic
16 installations and consider the fact that there
17 will be no fuel costs for 30 years, there will be
18 no NOx emissions for 30 years, there will be no
19 carbon dioxide emissions for 30 years.

20 And evaluate those things to see how
21 they do compare with the construction that's
22 planned.

23 Now, in talking about photovoltaics
24 there should be consideration given to the fact
25 that if they were mass produced, if the silicon

1 cells were mass produced -- and in Japan right now
2 they're working on even a better one -- but the
3 ones we've got now are 25 percent efficient, so
4 they don't take as much area.

5 But if they were mass produced we might
6 get that down so it's competitive with the
7 construction of a gas-fired combined cycle plant.

8 So that our request is to get that data
9 request fulfilled that we submitted to give us a
10 valid comparison of the alternatives.

11 That's all I have.

12 MR. THOMPSON: Applicant has received
13 the data request from Save Our Bay, and we will be
14 responding to them, providing information.

15 HEARING OFFICER GEFTER: I also
16 understand, Mr. Claycomb, your concerns were also
17 discussed in a recent PSA workshop, is that
18 correct?

19 MR. CLAYCOMB: Yes, ma'am.

20 HEARING OFFICER GEFTER: Yes, thank you.
21 Are there any other public comments at this point
22 in our hearing, because we're about to adjourn.

23 Okay. Hearing no other comments, the
24 hearing is adjourned.

25 MS. ALLEN: Ms. Gefter --

1 HEARING OFFICER GEFTER: It's too late,
2 Ms. Allen.

3 (Laughter.)

4 HEARING OFFICER GEFTER: We're still on
5 the record, yes?

6 MS. ALLEN: Thank you, I don't plan to
7 talk for ten minutes. I have a request from staff
8 that when you consider scheduling events in San
9 Diego that you consider avoiding Fridays.

10 Our experience has been that it's just
11 getting worse and worse trying to get out of the
12 San Diego Airport anytime you're into the
13 afternoon or early evening.

14 As a matter of fact, you know, we're
15 hoping that it works well tonight on Monday. But,
16 Fridays seem to be just really jammed.

17 HEARING OFFICER GEFTER: I'm actually
18 glad you brought that up because one of the things
19 we were considering is to conduct evidentiary
20 hearings, some of them up in Sacramento. And
21 conduct it on some of the topics that are not
22 controversial that members of the public and other
23 agencies haven't indicated to us that there are
24 any issues.

25 We've been tending to do that more

1 recently, is to conduct hearings in the Sacramento
2 area, in our offices, and have a teleconferencing
3 which members of the public and other agencies can
4 participate by telephone.

5 And that's one thing we may consider
6 down the road when we have our evidentiary
7 hearings on topics that are noncontroversial. So,
8 I wanted to indicate that to the public at this
9 point in time. But we are certainly, you know, if
10 anyone has any concerns about that, certainly let
11 the Public Adviser know, and we'll work with her
12 and with you.

13 Any issues that are obviously of great
14 concern, such as air quality and the natural gas
15 and the alternatives and those issues that have
16 been discussed today, we would certainly conduct
17 those hearings here in town.

18 Hearing no further comments, the hearing
19 today is adjourned.

20 (Whereupon, at 3:51 p.m., the status
21 conference was adjourned.)

22 --o0o--

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CERTIFICATE OF REPORTER

I, VALORIE PHILLIPS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Status Conference; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said status conference, nor in any way interested in outcome of said status conference.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of May, 2000.

VALORIE PHILLIPS

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